Re: Wallace Yard and Spur Lines Site - Revised Draft SOW 🗎

Clifford Villa to: Wurtzler, Gail

06/11/2009 10:31 AM

Cc: "Trueblood, Craig", Darrell.Early, "Lietz, Denise", GLHONEYM, RCBYLSMA, "Gibson, Rebecca", "Lawrence, Robert", "Handy, Sara", Ed Moreen

Following up on another of my to-do's, attached is ARARs language to insert into the RAWP. I tried to underline new text, but there may be a few other edits that may not show. Probably easiest just to cut & paste into the RAWP as is. With this, please send us the revised draft RAWP for review asap.

I also reviewed the latest draft of the SOW, comparing it with my own notes from Cd'A discussions. Haven't discussed it internally yet, but to me it looks very close to final. I hope to send final comments tomorrow.

Cliff Villa Assistant Regional Counsel U.S. EPA Region 10



RAWP Section 2.docx

"Wurtzler, Gail"

CONFIDENTIAL SETTLEMENT COMMUNICATI...

06/08/2009 03:52:14 PM



"Wurtzler, Gail" <Gail.Wurtzler@dgslaw.com> 06/08/2009 03:51 PM

To Clifford Villa/R10/USEPA/US@EPA

cc "Lawrence, Robert" <Robert.Lawrence@dgslaw.com>,
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Subject Wallace Yard and Spur Lines Site - Revised Draft SOW

CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408

Cliff,

Please see attached Word version and "redline" of the revised draft of the proposed Statement of Work showing changes based on the May 28 and 29 meetings. This draft has not yet been approved by Union Pacific and BNSF management, and we may therefore suggest additional changes.

<u>Definitions</u>. We have moved the definitions of "holidays" and "hostile vegetation" to the Consent Decree because those terms are used in that document. We have, where logical, incorporated in the SOW definitions from the Consent Decree rather than restate those definitions. This, of course, assumes that the parties reach agreement on the Consent Decree definitions. As you know from prior emails, your proposed change to the definition of "FROWW" in the June 5, 2009 draft is not acceptable to the railroads. There may be other definitions in the Consent Decree for which we will also propose changes.

Some of the SOW definitions incorporate the CD definition but should also include additional language to identify an attachment or explain something in the SOW. The SOW definition of "Work" also needs to be different than the CD definition because "Work" under the SOW is work that Settling Defendants perform and the CD definition covers work that they perform, work that they pay for, and other payments.

<u>Placeholders</u>. In sections 2.4.2 and 2.5.2, there are placeholders for the performance objectives regarding slope destabilization. Bob noted that you were going to consider the language we suggested in the May 20, 2009 draft and respond.

<u>M&R</u>. We have revised the description of M&R to reflect the fact that such work will be performed by a common consultant retained by the railroads.

<u>5-Year Review</u>. We have revised Section 2.7 as indicated in Craig's and Bob's notes from the May 28 and 29 meetings.

RAD drawings. Arcadis submitted the RAD Drawings for Wallace Yard and Hercules Mill on April 28 and has not received EPA comments yet. Sara Handy stated at the May 28 and 29 meetings that, assuming a prompt field inspection, Arcadis would try to submit draft Spur Line RAD Drawings within three weeks of the May 28 and 29 meetings. Although the field inspection did not occur until June 4, Arcadis will still try to have Spur Line RAD Drawings by approximately June 19. That date also assumes that the definition of FROWW is not changed from the concept used in the EE/CA for this site and the definition included in the draft Consent Decrees for this site since late 2008.

<u>RAWP</u>. At the May 28 and 29 meetings, EPA promised to provide proposed ARAR language for the RAWP. Arcadis is waiting with the next version of the RAWP until we receive that language.

We plan to send additional comments on the June 5 draft of the CD later this week.

Please call or email if you have any questions or wish to discuss. Thank you.

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gail.wurtzler@dgslaw.com DGSMANAGE_905571_4 (2).DOC 6-9-09 Redline of Draft SOW.pdf